



**Minutes of the
Millcreek Planning Commission
December 20, 2023
5:00 p.m.
Regular Meeting**

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, December 20, 2023, at City Hall, located at 1330 E. Chambers Avenue, Millcreek, Utah 84106. The meeting was conducted electronically and live streamed via the City's website with an option for online public comment.

PRESENT:

Commissioners

Shawn LaMar, Chair
Victoria Reid, Vice Chair (virtual)
Steven Anderson
David Hulsberg
Christian Larsen
Nils Per Lofgren
Diane Soule (virtual)
Dwayne Vance
Ian Wright

City Staff

Alexander Wendt, Deputy Recorder
Francis Lilly, Planning & Zoning Director
Brad Sanderson, Current Planning Manager
Carlos Estudillo, Planner
Kurt Hansen, Facilities Director
John Brems, City Attorney
Ryan Bagshaw, Development Review
Robert May, Long Range Planning Manager

Attendees: Miguel Ortega, Jenny Sanders, Kevin and Heather Stubbs, Chiedu Megwa, Joseph Browning, Lea Ann Hansen, Ryan Hogan, Ryan Corbin

REGULAR MEETING – 5:00 p.m.

TIME COMMENCED – 5:06 p.m.

Chair LaMar called the meeting to order and read a statement describing the duties of the Planning Commission.

Commissioner Larsen made the motion to wish Mr. Francis Lilly a happy birthday. All Commissioners voted yes, and the motion passed unanimously.

Commissioner Anderson made the motion to move item 2.1 to the beginning of the agenda. Commissioner Larsen seconded the motion. Chair LaMar asked for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Anderson voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. Commissioner Soule voted yes. The motion passed unanimously.

2.1 Consideration of CU-23-007, Request for a Conditional Use Permit to Accommodate a Drive-Thru Coffee Shop in the C-2 Zone Location: 877 E 4500 S Applicant: Jenny Sanders Planner: Carlos Estudillo

Planner Carlos Estudillo explained the applicant is seeking a conditional use permit in the C-2 Zone for a drive-thru coffee shop at 877 E 4500 S. This is in the Smiths parking lot. There are established businesses here and even another drive through coffee shop. The Community Council did not see the site plan favorably due to flow of traffic issues. Planners then worked with the applicant to create a new site plan that mitigates parking and driving issues. Mr. Bagshaw, Development Review Engineer explained that the traffic flow and site orientation has been changed to an L shape instead of a U shape. Two parking spaces were lost in the redesign. The new site egress is a single lane for safe exit on the west. Mr. Bagshaw, Development Review Engineer, said that engineering is very satisfied with these changes. The layout of the building at the front of the property would be considered an accessory structure and will not be allowed at the front of the property. Mitigation of this could include moving the building to the side of the property or connecting it to the main building. There would be a shared agreement between Smiths and the coffee shop to allocate parking. There is a proposed monument sign and plans consider how the sign could be moved to not block traffic line of sight. Mr. Estudillo gave a recommendation that based on the findings in his report that staff recommends that the Planning commission take comments at the public meeting and approve the Conditional Use Permit application CU-23-007 with the condition that the applicant must install streetlights on their right of way facing 4500 S.

Chair LaMar said that the parking lot would allow turning into the property from the east. Leaving the parking lot is problematic and could require restriping the parking lot. Mr. Bagshaw said a right-hand only sign be installed to help prevent stacking problems on 4500 S. Commissioner Lofgren likes the current proposed site plan because it prevents issues with parking. Commissioner Vance asked about restriping the parking lot. Commissioner Anderson asked about what direction to restripe the parking lot. Mr. Bagshaw said there are several options for restriping, but Smiths must agree. Chair LaMar asked if the applicant, Ms. Sanders, had anything to add. Ms. Sanders replied that Mr. Estudillo gave a good summary, and they are willing to make any changes needed. Chair LaMar asked if the Millcreek Community Council is aware of the changes that have been made. Mr. Estudillo said the Millcreek Community Council is aware of the changes and they did not have new comments on the new plan.

Chair LaMar opened the public hearing.

A gentleman who did not give his name gave public comment and said he came here to hear about the first item on the agenda.

Ryan Corbin, owner of Java Joes— Mr. Corbin stated this is a better site plan than before and that he is an expert in drive through coffee. Mr. Corbin asked for a bypass lane that would help deal with a large order. This would move cars out of the way. Otherwise, a large order creates a cork that stops traffic from moving. Mr. Corbin asked where the traffic data came from. His traffic data for his coffee shop came from his other Java Joes location. Implementing a bypass lane will help everyone in that parking lot. Mr. Corbin expressed frustration at this process.

Chair LaMar closed the public hearing.

Commissioner Vance said he is okay with the implementation now, and asked why the storage building must be moved. Mr. Estudillo said that the city code requires the building to be moved or altered. The building can be attached to the main building, or the building be moved to a different part of the property. Chair LaMar asked what is on the north side of the property. Mr. Estudillo said it is a solid waste dumpster. Mr. Bagshaw said that spot is not set in stone. Commissioner Hulsberg said this new site plan helps a lot. Commissioner Soule commented and asked if Smiths is totally okay with this, and this site plan is much better. Commissioner Soule went to this parking lot twice in the last month and has concerns that this parking lot flow will be negatively affected. Mr. Estudillo said that Smiths and the applicant have a signed agreement and have agreed on this project. Mr. Estudillo added that he cannot answer the question about whether Smiths is okay with re-striping the parking lot. Chair LaMar said he hopes Smiths is okay with restriping the parking lot because it could cause parking issues. Commissioner Vance said he is reluctant to impose conditions on a third party. Chair LaMar said it is not exactly imposing conditions on a third party, it requires the applicant to work with the Smiths. Commissioner Vance said he is okay with a request not a condition. Commissioner Reid asked about landscaping plans. Mr. Estudillo said that landscaping plans are required by code. There must be trees and landscaping on the property. Commissioner Vance said that something must be done about conditions for the accessory building that does not meet code.

Chair LaMar moved that the Planning Commission approve item CU-23-007 with the following conditions, that the applicant install street lighting on 4500 S as required by Millcreek Engineering, that traffic cones etc. shall be taken down when construction is complete, and to work with Smiths or Kroger to restripe the parking lot. Commissioner Vance seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Anderson voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. Commissioner Soule voted no. The motion passed with eight yes votes and one no vote.

Chair LaMar asked if Commissioner Soule would explain why she voted no. Commissioner Soule said she feels that traffic problems will occur in the future.

1. Public Hearings

1.1 Consideration of ZT-23-012, Consolidation of C-1, C-2, and C-3 Zones and the Creation of a New Commercial C Zone Planner: Brad Sanderson

Mr. Sanderson gave the presentation for this item. The guiding principles were established as part of the Millcreek Together Code Update, ensure the code is user friendly, consolidated, and united, include language that is clearly defined and uniform, makes development easy, encourage community health. The Code update primary effects new development and will not rezone any properties as part of the residential mixed (RM) code update. All properties will remain within their respective zone. This will not affect existing uses and or structures so long as they were legally permitted at the time they were established. This does not change any existing height transition requirements. One change made has been to refine uses that are in the RM Zone. Some dwellings have been changed to permitted use rather than conditional use. Multiple household developments which have more than 6 units would be conditional

use. Some commercial uses would be allowed under a conditional use permit or a mixed-use development. Mixed use development is required for properties along street frontages located within 500 feet of major intersections. Commercial uses such as restaurant, retail, and personal services are permitted as part of a mixed-use development. Staff will add affordable housing and ownership density incentives. Additional design standards are being proposed. Staff will propose code changes to alter location and screening criteria for dumpsters and utilities, recreational amenity requirements have been revised. Mr. Sanderson asked rhetorical questions for now, but these are items to consider by the Planning Commission. Should there be limitations on certain retail uses in the RM Zone, should a higher or lower number of residential units be allowed as a permitted use, should lot coverage be excluded for residential developments exceeding a certain number of units, is mixed use still an appropriate use in the RM Zone or should it be its own designation, are the affordable housing incentives sufficient or are there others, do all the units need to be affordable or is there a percentage or ratio that might be preferred, should architectural features be included or excluded from building height limitations, do the proposed updated codes meet the intent of the guiding principles. The Millcreek Community Council (MCC) recommended the following: changing the incentives from "and under 50 units" be changed to 12 units. The Mount Olympus Community Council gave a positive recommendation for its adoption of the RM Zone. East Mill Creek Community Council forwarded a positive recommendation for the approval of the application. Commissioner Soule asked and commented that the architectural features noted in the presentation are very different items, a parapet is very different from a shade structure or steeple. This needs more specificity and does not have enough detail. There should be height limitations on these features. Commissioner Soule asked about height requirements on a 30-foot-high building. Mr. Sanderson said that a pitched roof would be limited to the 30-foot limit, yet a question for the Commission is how high would a parapet be allowed above 30 feet if at all? Commissioner Soule said that shade structures on a home on a residential street is problematic. Chair LaMar asked Lee Ann Hansen from the Millcreek Community Council if she had input. The Millcreek Community Council had concerns about lot size and wanted to preserve smaller lots.

Chair LaMar opened the public hearing.

Thomas Cormier said he was concerned about parking in commercial zones spilling into the RM Zone.

Chair LaMar closed the public hearing.

Chair LaMar said he thought that a project would probably be in one zone only. Mr. Sanderson said that sometimes a project will span two or three zones. When that happens staff will ask that they rezone to one or the other and then follow the guidelines of the general plan. There is not a plan to change any current zoning, this just updates the language in the zone. Chair LaMar asked about green space alterations. Mr. Sanderson said that historically the RM Zone requires 40% green space but there have been discussions about reducing that percentage in mixed use development or developments with affordable housing. Mr. Sanderson explained that they are maintaining setbacks for yard areas. Parks are a separate matter. There are master plans for open spaces. That is a legislative issue not administrative. Mr. Sanderson said that if the Commissioners are comfortable with these changes as proposed they can make a motion or continue it with a new meeting. Commissioner Wright

said his preference is a 30-foot height limit. Mr. Sanderson would like to be as consistent as possible with the height between R1 Zones and RM Zone transitions. Commissioner Reid said she prefers 30-foot height limits. Commissioner Anderson agreed and said he supports a 30-foot limit. Commissioner Larsen said he would like to make the requirement in transition zones the same, whether it is 30 or 32 feet. Chair LaMar asked about measurements. Mr. Sanderson said the first 100 feet of a property abutting a different zone would be required to meet the height requirement. A three-story building with a flat roof is 30 feet, a two-story building with a pitched roof is 30 feet. Mr. Sanderson said there are a lot of properties with grade changes, and they work with developers to keep a building stepping up or down with the elevation change. Commissioner Larsen asked to make allowances for parapets and equipment but was not sure what the allowance should be but would also like examples of what the height allowances would be. Lee Ann Hansen said her concerns were about R-1-6 and R-1-8 Zones and the height requirements. 30-foot height limits are good there. Commissioner Larsen said he is happy with the code changes so far; he commended staff on the incentives for affordable housing. Commissioner Hulsberg said he is fine with the number of units at 6 before a conditional permit is needed is a good amount. He had some concerns about empty storefronts in mixed use developments.

Mr. Sanderson asked if the Commission would want mixed use in the RM Zone. Commissioner Reid asked if design standards apply to affordable housing. Mr. Sanderson said yes, for the most part, but they have a few exemptions. Commissioner Reid supported the idea of making some buildings smaller, like 20 units, so they do not look like a barracks. Commissioner Reid said making some percentages affordable and some less affordable is okay. It is better to not segregate housing like that. Chair LaMar asked about affordable housing thresholds. Mr. Lilly said the concept is that there must be a tax credit or loan, deed restriction for 30 years, and it must be affordable to households at or below 80% of the median income. He said there could be exceptions for small items like shade structures, but the mass of the building should be considered. It would be wise to put a height restriction on a parapet. Mr. Lilly said that the city would not like gated communities in the commercial zone. Chair LaMar spoke about exterior fencing with Mr. Sanderson. He likes the idea of a landscape buffer but questioned the 5-foot fence setback. Commissioner Vance asked for some wording changes to the code so words like permitted in mixed use are clearer. Commissioner Soule asked if the Commission would be limiting affordable housing by forcing people to use higher end building materials on the façade of a building. Mr. Lilly said these ordinances should be refreshed about every 10 years and would not require a large write-up for twenty years, but this will require smaller changes more often. Mr. Sanderson said that height problems are a continuous issue in Millcreek, he said it seemed that the Commission was fine with the 30-foot limit. Commissioner Larsen asked if it would be better to continue this item and wait for the City Council to hash out some changes in their next meeting.

Commissioner Larsen moved to continue item ZT-23-012. Commissioner Hulsberg seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Anderson voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Soule voted no, Commissioner Lofgren voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. The motion passed with 8 yes votes and 1 no vote.

1.2 Consideration of ZT-23-015, Updates to the RM Zone Planner: Brad Sanderson

Mr. Sanderson spoke about commercial zones. C-1 Zones are rare, C-2 Zones are far more common, C-3 are also rare. The general overview of guiding principles is the same. This code update will not rezone any properties as part of the commercial zone update. There are far more uses in the Commercial zone than the RM Zone. The commercial zone has affordable housing requirements. This code change seeks to consolidate the Commercial zones into one zone. The update seeks to change certain uses from a permitted use to a conditional use and vice versa. Mixed-use continues to remain as an allowed use within the commercial zone. One conversation that Mr. Sanderson had with an RV dealer that borders an RM Zone and hoped it would not affect the expansion of their business. Mr. Sanderson said that perhaps for properties on State Street there could be exceptions made in the code to accommodate their businesses and the 150-foot setback. There are more design standard changes in the commercial zone code update. Staff would like to screen and fence residential areas from commercial areas. 80% lot coverage would be required. Staff is proposing a build-to area within 300 feet of a major intersection. There are pros and cons to the build-to requirements. 75% of a building's face needs to be near the street for properties. The design standards would maintain existing material requirements for general commercial use, update specific design standards for hotels and prohibits stucco, a mixed-use development requires a minimum of 100 feet of street frontage, new requirements for dumpster placement and screening. Consolidation of the three commercial zones would make the code less cumbersome but are there any foreseeable or unintended detriments resulting from the zone consolidation. Should commercial zones be reserved strictly for retail type uses. Mr. Sanderson reviewed many other considerations for the Commissioners. Mr. Lilly said that the Canyon Rim and East Millcreek Community Councils had concerns. Mr. Sanderson spoke about limiting drive through windows to streets not facing residential areas. The Millcreek Community Council suggested restrictions on new storage units on east of 700 East, and wanted to reduce the percentage of affordable housing that can be built in the C Zone. 100% is too high. The Mount Olympus Community Council was okay with this. The East Millcreek Community Council gave a positive recommendation. Commissioner Vance asked the goal behind having a buffer between uses that are the same nearby each other. Mr. Sanderson said it prevents oversaturation of the same type of businesses right next to each other. If the same type of businesses is next to each other and do not generate sales tax that is a problem. Commissioner Vance said a limit is necessary but isn't sure that the ratio should be.

Chair LaMar opened the public hearing.

A man who did not give his name encouraged that this be continued for another time. He was worried about height restrictions and limiting development. Height restrictions may dissuade developers.

Chair LaMar closed the public hearing.

Commissioner Vance asked about the lot that Macys inhabits at Wasatch Blvd, is it possible for there to be a car dealership on that lot? Mr. Sanderson said a dealership would fit in the middle of the property, but the lot would have to be subdivided. Chair LaMar said that since the use is allowed a lot line adjustment would allow it. Mr. Sanderson mentioned that members of the city had been worried about a car dealership being created on that property.

Mr. Sanderson said they could do a lot line adjustment and there is nothing the city could do to stop them unless there was other code written that would stop it. Commissioner Reid said she does not care about open space in the commercial zone but would like to dedicate more open space to parks in Millcreek. Somehow divert open space to city parks from the commercial zone. Commissioner Soule agreed with Commissioner Reid about diverting open space to other areas. She added that Salt Lake City has changed their incentives for affordable housing. Furthermore, affordable housing should be mixed in with other housing. Perhaps each building should be 20% affordable housing. Commissioner Hulsberg asked if Millcreek is losing commercial space to large multifamily developments. Mr. Sanderson explained most developments they see are for residential uses. Many rezones move properties from commercial to mixed or residential use. Commissioner Lofgren said that he supports smaller ratios of affordable housing in the commercial zone. Commissioner Larsen agrees that there are too many storage facilities, and he is also in favor of incentivizing affordable housing but does not want to cannibalize the commercial zone. He commiserates with the Mount Olympus Community Council and their concern about a car dealer. It is important to identify the village centers in Millcreek and then identify uses that are incompatible in the village centers that would normally fit into a commercial zone. Mr. Sanderson said that by imposing square footage requirements on car dealers or other businesses it can dissuade them from operating in a certain area. Chair LaMar said in Canyon Rim there are restaurants within 150 feet of residential areas so perhaps a ghost kitchen would not be terrible. Check cashing should still have a 300-foot prohibition from a major intersection.

The 150-foot buffer zones are designed to help prevent incompatible uses near each other. Sanderson asked if there is an appetite to relive the RV dealership of buffer issues that might occur. Chair LaMar said that State Street is a unique area in the city commercial zones. Chair LaMar asked if Mr. Sanderson would like a continuance and then asked how much the Commercial Zone needs to be protected in Millcreek.

Commissioner Larsen moved to continue item ZT-23-015. Commissioner Vance seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Anderson voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

2. Continuing Business

2.1 Consideration of CU-23-007, Request for a Conditional Use Permit to Accommodate a Drive-Thru Coffee Shop in the C-2 Zone Location: 877 E 4500 S Applicant: Jenny Sanders Planner: Carlos Estudillo

This item was moved to the beginning of the agenda.

3. Commission Business

3.1 Approval of November 15, 2023, Regular Meeting Minutes

Chair LaMar moved to approve the November 15, 2023, Regular Meeting Minutes. Commissioner Lofgren seconded. Chair LaMar called for the vote. Chair LaMar voted yes,

Commissioner Reid voted yes, Commissioner Anderson voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes, Commissioner Soule voted yes. The motion passed unanimously.

3.2 Updates from the Planning and Zoning Director

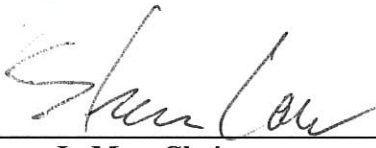
Next month Mr. Lilly said that he would talk with the Planning Commission about the sign code. And the City Staff would ask for recommendations on the M Zones.

4. Calendar of Upcoming Meetings

- Millcreek Community Council Mtg., 1/2/24, 6:30 p.m.
- Canyon Rim Citizens Association Mtg., 1/3/24, 7:00 p.m.
- East Mill Creek Community Council Mtg., 1/4/24, 6:30 p.m.
- City Council Special Mtg. 1/4/24 8:00 a.m.
- Mt. Olympus Community Council Mtg., TBD
- City Council Mtg. 1/9/24 7:00 p.m.
- Historic Preservation Commission Mtg., 1/11/24, 6:00 p.m.
- Planning Commission Mtg., 1/17/24, 5:00 p.m.

ADJOURNED: Commissioner Vance moved to adjourn the meeting at 8:10p.m. Commissioner seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Anderson voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Soule voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

APPROVED:


Shawn LaMar, Chair

Date

2/28/2024

Attest:


Alexander Wendt, Deputy Recorder